

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)

PUBLIC UTILITIES COMMISSION)

Instituting a Proceeding to Investigate)
the Implementation of Feed-in Tariffs)
_____)

DOCKET NO. 2008-0273

MOTION FOR INTERVENTION OF
HAWAII SOLAR ENERGY ASSOCIATION

AND

CERTIFICATE OF SERVICE

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PUBLIC UTILITIES
COMMISSION

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MOTION TO INTERVENE AND BECOME A PARTY

INTRODUCTION

Pursuant to Hawaii Administrative Rules (HAR) Section 6-61-55, this “Motion To Intervene and Become A Party” before the Public Utilities Commission (PUC) of the State of Hawaii is respectfully submitted by the Hawaii Solar Energy Association (hereafter ‘HSEA’ or ‘the Applicant’), in the matter of the Proceeding to Investigate the Implementation of Feed-in Tariffs (Docket No. 2008-0273) opened by the Commission on October 24, 2008.

HSEA is a non-profit professional trade association (an organization) incorporated in the State of Hawaii in 1977 and is granted exemption from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986. HSEA’s organizational purposes are to

promote the utilization and commercialization of renewable energy resources, including solar water heating and solar electricity (PV) in the State of Hawaii, to advance consumer education and understanding of solar energy technologies, and to develop sound trade and technical practices among its member companies. HSEA has more than 40 member companies, 34 of which are Hawaii based, owned and operated, making it the primary organizational representative of the interests of Hawaii's indigenous solar industry.

COMPLIANCE WITH APPLICABLE RULES

Applicant represents and asserts that it meets the requirements for intervention, consistent with the Rules of Practice and Procedure before the Public Utilities Commission (the "PUC Rules"), as contained in Title 6, Chapter 61, Subchapter 4, of the Hawaii Administrative Rules ("HAR"), as follows:

(1) The Nature of the Applicant's Statutory or Other Right to Participate in the Hearing

Hawaii Revised Statutes (HRS) Section 269-13 provides the statutory basis for HSEA's participation in the hearing. HAR Section 6-61-55 provides the regulatory basis for HSEA's participation in the hearing. HSEA has complied with the provisions stated in HAR Section 6-61-55. Several additional rights to participate in the hearing exist.

HSEA has been a participant in the Net Metering Docket 2006-0084, which results of any feed-in tariff enacted may replace in whole or in part. Additionally, HSEA has been a participant and continues to participate in HECO and MECO's Integrated Resources Plan (IRP, Advisory Group member) planning processes. HSEA has participated in the

Energy Efficiency Policy Task Force (member) created by the Legislature of the State of Hawaii, the Hawaii Energy Policy Forum coordinated by the University of Hawaii (member), and the Hawaii Clean Energy Initiative (member).

HSEA's articles of incorporation and by-laws support its right to participate in the hearing. HSEA's board of directors has authorized HSEA's participation in the hearing and has appointed Mark Duda or another duly appointed representative to represent HSEA before the PUC in the matter of the Proceeding to Investigate the Implementation of Feed-in Tariffs (Docket No. 2008-0273).

(2) The Nature and Extent of the Applicant's Property, Financial, and Other Interest in the Pending Matter

HSEA member companies design and build the majority of PV systems, both residential and commercial, in the State. These activities cover systems installed directly for end-users; systems installed for third party financiers/owners/operators of such systems that produce power which is purchased by the Hawaiian Electric Companies; systems installed under subcontracting relationships for solar integrators based outside the state; and operations and maintenance contracting on systems installed by non-Hawaii based integrators. The pending order's intent to revise and/or supplanting of rules govern the financial returns to investment in residential and commercial solar systems envisioned in this docket will have an immediate, substantial and direct impact on the financial and economic interests of HSEA's member companies. Examples of possible changes in the financial performance of investments in solar that are noted directly or implied in the Energy Agreement among the State of Hawaii, Division of Consumer Advocacy of the

Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies

("The Agreement") include but are not limited to:

- "Support the installation of third-party and customer PV systems through feed-in tariffs that offer known, stable pricing terms and standardized interconnections (See Feed-in Tariff section)" (The Agreement, Section 4, subsection 6, page 12.)
- "Support customer energy payment options through modification of Hawaii's Net Metering option to include provisions for the sale of excess energy produced by the customer's net metered system on an annual basis and payment for such energy at the feed-in tariff rate or at a somewhat lower fixed rate to fairly balance the option risks available in all customer options. New net metered installations shall be required to incorporate time-of-use metering equipment and, when time-of-use rates are implemented on a full scale basis in Hawaii or the applicable area, the net metered customer shall move to time of use net metering and sale of excess energy. The Parties agree that net metering installations benefit from system ancillary services, but that the long term commodity risks accepted by installation owners and excess energy payments contemplated herein, adequately compensate for the use of ancillary services that are unique to small island systems." (The Agreement, Section 4, subsection 7, page 12.)
- In the case of third party-owned systems, the utility may purchase PV energy at a standard rate. That rate shall not be linked to avoided cost and is intended to provide long-term stable pricing. The initial rate shall be set based on a competitive solicitation done by the utility before the submission of the PV Host program application. The standard rate may be changed, subject to PUC approval, based on changes in tax laws and rebates, changes in PV system costs, and other developments in PV services. (The Agreement, Section 4, subsection 8c, page 13.)
- The parties agree that feed-in tariffs are beneficial for the development of renewable energy, as they provide predictability and certainty with respect to the future prices to be paid for renewable energy and how much of such energy the utility will acquire. The parties agree that feed-in tariffs should be designed to cover the renewable energy producer's costs of energy production plus some reasonable profit, and that the benefits to Hawaii from using a feed-in tariff to accelerate renewable energy development (from lowering oil imports, increasing energy security, and increasing both jobs and tax base for the state), exceed the potential incremental rents paid to the renewable providers in the short term. (The Agreement, Section 7, Page 16-17.)

(3) The Effect of the Pending Order as to the Applicant's Interest

The pending order's impact on HSEA's member companies' property, financial and economic interests will be direct and substantial as they go to the heart of the indigenous solar industry's business model. This model is centered on delivering distributed, grid-tied, solar power generating systems that *reduce operating costs for Hawaii's homes and businesses* and supply excess solar power, to the Hawaiian Electric Companies, that is either valued at retail rates under net energy metering or is purchased by the Hawaiian Electric Companies under power purchase agreements. The ability to deliver substantial savings on operating costs and obtain value or payment for excess solar energy supplied to the Hawaiian Electric Companies is central to HSEA member companies' interests and will be substantially affected by the pending order.

(4) Other Means Available Whereby the Applicant's Interest May Be Protected

HSEA and its member companies have no means other than intervention in this proceeding for protecting their property, financial and economic interest with respect to the subject matter of this proceeding. There is no other forum or context in which the subject matter of this proceeding is pending.

(5) The Extent to Which the Applicant's Interest Will Not Be Represented by Existing Parties

The named parties are HECO, HELCO, MECO and the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy. None of the named parties has the same interests as Applicant or may fairly represent Applicant because none of the named parties have their livelihoods tied to the sale and installation of solar photovoltaic generating equipment, the design and construction of systems comprised of such

equipment, or the economic returns from the production of power by such systems (including the value or payment by the Hawaiian Electric Companies for excess power produced by such systems), as do the members of HSEA. Additionally, three of the named parties – HECO, MECO, and HELCO have indicated their intention to enter the business in direct competition with existing solar integrators and developers via the 'PV Roofs' program discussed in the Energy Agreement among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies. The solar industry is the only sector of the renewable energy industry where such direct competition between the utility is envisioned in the Agreement. As such, HSEA perceives that named parties to the pending order have interests that, under reasonable assumptions, should be expected to conflict with those of HSEA member companies.

(6) The Extent to Which the Applicant's Participation Can Assist in the Development of a Sound Record

As envisioned in the Energy Agreement among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies, there are at least four implicit categories of power producers for the purpose of developing feed-in tariff rates, classes, and quotas – residential, small commercial (<100 kW), larger commercial, and utility-scale. At present, HSEA member companies design and build virtually all residential and small commercial systems, and majority of large commercial systems in the State. In this role, HSEA member companies are in direct, daily contact with the consumers and developers

of the majority of solar power produced in the State (at present there is only one utility scale project in the State).

HSEA member companies therefore have the expertise, knowledge and experience to assist the Commission in the development of a sound record, by providing facts, fact-based opinions and fact-based conclusions regarding “the best design for feed-in tariffs that support the Hawaii Clean Energy Initiative,” including “such factors as categories of renewables, sizes or locational limits for projects qualifying for the feed-in tariff, how to manage and identify project development milestones relative to the queue of projects wishing to take the feed-in tariff terms, what annual limits should apply to the amount of renewables allowed to take the feed-in tariff terms, what factors to incorporate into the prices set for feed-in tariff payments, and the terms, conditions, and duration of the feed-in tariff that shall be offered to all qualifying renewable projects, and the continuing role of the Competitive Bidding Framework” as envisioned in the Agreement.

HSEA brings the experience of intervening in numerous energy related dockets over its three decade history, including the most relevant one to the pending order, the net energy metering docket (No. 2006-0084), in which it was an intervener. HSEA is committed to using the accumulated expertise, knowledge, and experience of its members to assist the Commission in the development of a sound record in this proceeding.

(7) The Extent to Which the Applicant’s Participation Will Broaden the Issues or Delay the Proceeding

HSEA’s participation will not broaden the issues or delay the proceeding.

(8) The Extent to Which the Applicant's Interest in the Proceeding Differs from That of the General Public

Applicant's interest in this proceeding differ substantial from those of the general public in that HSEA member companies have substantial expertise in issues relevant to the pending order that does not reside with the general public. Similarly, HSEA member companies, via the concentration of their economic interests in areas influenced by a potential feed-in tariff are substantially more exposed to the results of the pending order than the general public.

(9) Whether the Applicant's Position Is in Support of or in Opposition to the Relief Sought

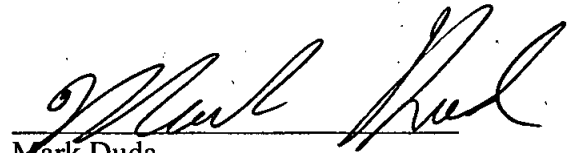
Applicant's position is provisionally in support of implementing feed-in tariffs in the Hawaiian Electric Companies' service territories. Applicant notes, however, that there are a range of implementation methods and schemes for feed-in tariffs and it would be possible to implement a system of such tariffs that would directly harm the interests of the state's indigenous solar industry.

* * * *

CONCLUSION

Based on the foregoing, Applicant respectfully requests that the Public Utilities Commission grant its motion to intervene in Docket No. 2008-0273.

DATED: Honolulu, Hawaii, November 12, 2008

A handwritten signature in black ink, appearing to read "Mark Duda", is written over a horizontal line.

Mark Duda
President
Hawaii Solar Energy Association

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Intervene was duly served on each of the following parties via hand delivery or United States Mail, postage prepaid, as set forth below:

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(Via hand-delivery)
(2 Copies)

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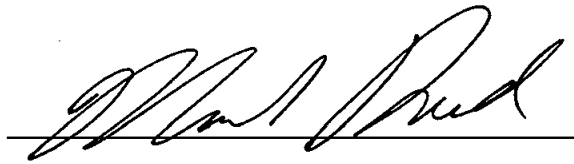
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DATED: Honolulu, Hawaii, November 13, 2008.

A handwritten signature in black ink, appearing to read "Mark Duda", is written over a horizontal line.

Mark Duda

For Hawaii Solar Energy Association